

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SYSMEX CORPORATION and
SYSMEX AMERICA, INC.,

Plaintiffs,

v.

BECKMAN COULTER, INC.,

Defendant.

Case No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs Sysmex Corporation (“Sysmex”) and Sysmex America, Inc. (“SAI”) (collectively “Plaintiffs”), bring this Complaint against Beckman Coulter, Inc. (“BCI”), and allege as follows:

NATURE OF THE ACTION

1. This is a civil action for infringement of United States Patent No. 10,151,746 entitled “Sample Analyzer and Computer Program Product” (“the 746 Patent”). A true and correct copy of the 746 Patent is attached as Exhibit A. This action arises under the patent laws of the United States, 35 U.S.C. § 1, *et seq.* Plaintiffs seek lost profits and/or a reasonable royalty.

THE PARTIES

2. Plaintiff Sysmex is a corporation organized and existing under the laws of Japan having its principal place of business at 1-5-1, Wakinohama-kaigandori, Chuo-ku, Kobe, Hyogo, Japan.

3. Plaintiff SAI is a Delaware corporation having its principal place of business at 577 Aptakistic Road, Lincolnshire, IL 60069. SAI is a wholly-owned subsidiary of Sysmex.

4. Plaintiffs are the assignees of the 746 Patent, and are the co-owners of the entire right, title, and interest in and to the 746 Patent, including the right to enforce and to recover damages for any current or past infringement of the 746 Patent.

5. Upon information and belief, Defendant BCI is a Delaware corporation having its principal place of business in Brea, California.

6. Upon information and belief, BCI makes, offers to sell, sells and exports hematology analyzer systems, including the UniCel DxH 600, UniCel DxH 800, UniCel DxH 801, UniCel DxH 1600, UniCel DxH 1601, UniCel DxH 2400, UniCel DxH 2401, UniCel DxH 900, UniCel DxH 900 SMS, UniCel DxH 900-2, UniCel DxH 900-2 SMS, UniCel DxH 900-3, and UniCel DxH 900-3 SMS analyzer systems (the “Accused Products”), which infringe the 746 Patent.

JURISDICTION AND VENUE

7. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code.

8. This Court has subject matter jurisdiction over the infringement action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

9. Upon information and belief, BCI is subject to this Court’s general and specific personal jurisdiction because, *inter alia*, BCI is incorporated in the State of Delaware, and solicits and conducts business in Delaware, including the provision of goods, derives revenues from goods sold in Delaware and within this judicial district, and has committed acts of

infringement in this judicial district, including but not limited to the offering to sell and selling the Accused Products in this judicial district.

10. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400(b) because BCI is incorporated in the State of Delaware and therefore “resides” in this judicial district.

THE PATENT

11. The 746 Patent duly and legally issued on December 11, 2018.

12. Each claim of the 746 Patent is valid and enforceable.

13. The 746 Patent describes, among other things, a sample analyzer having a plurality of chambers and a plurality of optical or electrical detectors for analyzing blood samples or body fluid samples, including at least one multi-mode detector that can analyze both blood and body fluid samples.

THE ACCUSED PRODUCTS

14. The Accused Products are analyzer systems that include a sample analyzer comprising, among other things, a plurality of chambers and a plurality of optical or electrical detectors for analyzing blood samples or body fluid samples, including at least one multi-mode detector that can analyze both blood and body fluid samples.

15. A first type of analyzer is included in each of the UniCel DxH 600, UniCel DxH 800, UniCel DxH 801, UniCel DxH 1600, UniCel DxH 1601, UniCel DxH 2400 and UniCel DxH 2401 analyzer systems. One analyzer is included in each of the UniCel DxH 600, UniCel DxH 800 and UniCel DxH 801 analyzer systems. Two analyzers are included in each of the UniCel DxH 1600 and UniCel DxH 1601 analyzer systems. Three analyzers are included in each of the UniCel DxH 2400 and UniCel DxH 2401 analyzer systems.

16. A second type of analyzer is included in each of the UniCel DxH 900, UniCel DxH 900 SMS, UniCel DxH 900-2, UniCel DxH 900-2 SMS, UniCel DxH 900-3 and UniCel DxH 900-3 SMS analyzer systems. One analyzer is included in each of the UniCel DxH 900 and UniCel DxH 900 SMS analyzer systems. Two analyzers are included in each of the UniCel DxH 900-2 and UniCel DxH 900-2 SMS analyzer systems. Three analyzers are included in each of the UniCel DxH 900-3 and UniCel DxH 900-3 SMS analyzer systems.

17. The Accused Products use the technology claimed by the 746 Patent. More specifically, each of the Accused Products infringes at least claims 1-8 and 10-12 of the 746 Patent.

18. The Accused Products, and BCI's acts of importation, offer for sale, sale, and exportation of the Accused Products is in direct competition with Plaintiffs and their products, including products that are covered by one or more claims of the 746 Patent.

COUNT I – PATENT INFRINGEMENT

19. Plaintiffs repeat and incorporate by reference the allegations set forth in Paragraphs 1–18 above.

20. BCI has infringed and is continuing to infringe at least claims 1-8 and 10-12 of the 746 Patent, literally and/or under the doctrine of equivalents, by making, using, offering to sell, selling and/or supplying in or from the United States the infringing analyzers, including the Accused Products, and/or inducing and/or contributing to such conduct by BCI's customers or other persons or entities, without authority and in violation of 35 U.S.C. § 271(a), (b) and/or (f).

21. BCI does not have any license or other authority from Plaintiffs or any other person or entity to practice the subject matter claimed by the 746 Patent.

22. The notice provisions of 35 U.S.C. § 287 with respect to the 746 Patent are satisfied at least as of the date of service of this complaint upon BCI.

23. BCI's infringing acts, occurring at least after receipt of notice of this complaint, constitute willful infringement of the 746 Patent, rendering this an exceptional case pursuant to 35 U.S.C. § 285.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request for judgment:

- a. adjudging that Defendant BCI has infringed and is continuing to infringe the 746 Patent;
- b. awarding Plaintiffs damages adequate to compensate for BCI's infringement of the 746 Patent together with interest and costs as fixed by the Court, which damages include lost profits, and in no event less than a reasonable royalty;
- c. enjoining BCI or any of its agents or related entities from making, using, offering to sell, selling, and/or supplying in or from the United States the Accused Products and any other systems and components of systems or methods that practice, or otherwise aiding or inducing BCI's customers or other persons or entities to practice, the subject matter of the 746 Patent, pursuant to 35 U.S.C. § 283;
- d. adjudging that BCI's continued infringement of the 746 Patent is willful and increasing up to treble all damages awarded to Plaintiffs for such infringement, pursuant to 35 U.S.C. § 284;
- e. declaring this exception case under 35 U.S.C. § 285 and awarding Plaintiffs their attorneys' fees, costs, and expenses; and

f. granting Plaintiffs such other and further relief as this Court deems just and proper.

JURY DEMAND

Pursuant to Federal Rules of Civil Procedure 38 and 39, Plaintiffs assert their rights under the Seventh Amendment to the United States Constitution and demand a trial by jury on all issues triable as such.

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